THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today was ***not*** written for publication and is ***not*** binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte ERIC P. BLACK,
MICHAEL E. HITTMEIER, W. HAYES INGRAM
and
R. SCOTT JOHNSON

_____

Appeal No. 2000-1026
Application 08/979,759

_____

ON BRIEF

_____

Before GARRIS, TIMM and PAWLIKOWSKI, ***Administrative Patent Judges***.

GARRIS, ***Administrative Patent Judge***.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 1-9 and 11-13, which are all of the claims remaining in the application.

The subject matter on appeal relates to a method for making a consolidated wood product comprising coating wood components with a B-stageable, phenol-formaldehyde resole resin having a number average molecular weight of between about 200 and 600, heating the coated wood components to about 80 to 140EC for a time sufficient to advance the resin to a B-stage, forming a mat or stack of the wood components and exposing the mat or stack to a saturated or superheated steam atmosphere in a hot press and compressing the layup to form the consolidated wood product. This appealed subject is adequately illustrated by independent claim 1, which reads as follows:

1. A method for making a consolidated wood product comprising coating wood components with a B-stageable, phenol-formaldehyde resole resin; heating the coated wood components

to about 80 to 140EC for a time sufficient to advance the resin to a B-stage; forming a mat or stack of the wood components coated with the B-stage resin; exposing the mat or stack of coated wood components to a saturated or superheated steam atmosphere in a hot press and compressing the layup to form the consolidated wood product; wherein the B-stageable phenol-formaldehyde resole resin has a number average molecular weight of between about 200 and 600, has a F:P mole ratio of about 1.3:1 to 2.0:1, and has been modified with 0 to about 5.5 wt % of caustic based on resin solids.

The references set forth below are relied upon by the examiner as evidence of obviousness:

Morrison et al. (Morrison)	2,997,096	Aug. 22, 1961
Whittemore	5,079,332	Jan. 7, 1992

All of the claims on appeal stand rejected under 35 U.S.C. § 103 as being unpatentable over Whittemore in view of Morrison.

We cannot sustain the above-noted rejection.

We agree with the appellants that Whittemore fails to teach a number of the here-claimed method features including coating wood components with a B-stageable phenol-formaldehyde resole resin having a number average molecular

weight of between about 200 and 600 and heating the coated wood components to about 80 to 140EC for a time sufficient to advance the resin to a B-stage. We also agree with the appellants that these deficiencies of Whittemore are not supplied by Morrison for a number of reasons.

First, while Morrison discloses B-stage curing followed by full polymerization of the final C-stage (e.g., see lines 32-37 in column 7) in his production method, the product in question constitutes a mass of glass fibers rather than a consolidated wood product of the type here claimed and of

the type disclosed by Whittemore. Given the disparate nature of the respective products of Whittemore and Morrison, it is questionable, at best, whether an artisan with ordinary skill would have found in these reference teachings motivation based on a reasonable expectation of success for the combination proposed by

the examiner. ***In re O'Farrell***, 853 F.2d 894, 903, 7 USPQ2d 1673, 1680-81 (Fed. Cir. 1988) (obviousness under § 103

requires a suggestion to modify and a reasonable expectation that the modification would have been successful).

Second, as pointed out by the appellants, neither Whittemore nor Morrison contains any teaching of a phenol-formaldehyde resole resin which has a number average molecular weight of between about 200 and 600 as required by the indepen-dent claims on appeal. Specifically, Morrison contains no disclosure at all regarding the number average molecular weight of the phenol-formaldehyde resin used in his process, and the only phenol-formaldehyde resin number average molecular weight disclosed by Whittemore is in the range of about 3,000 to 5,000 (see lines 14-23 in column 5) which is far above the here claimed range. Thus, even if the teachings of Whittemore and Morrison were combined, no basis exists for concluding that the method resulting from this combination would possess the number average molecular weight feature defined by the appellants' independent claims.

In light of the foregoing, we cannot sustain the examiner's § 103 rejection of all appealed claims as being unpatentable over Whittemore in view of Morrison.

The decision of the examiner is reversed.

REVERSED

BRADLEY R. GARRIS Administrative Patent Judge	)	
CATHERINE TIMM Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
BEVERLY A. PAWLIKOWSKI Administrative Patent Judge	)	

BRG:psb

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